

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

GREGORY PAUL FINLEY,

Plaintiff,

v.

Case No. 2:21-cv-10-JLB-NPM

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

Before the Court are Defendant's Opposed Second Motion for Stay of Proceedings (Doc. 12) and Plaintiff's Response (Doc. 14). For a second time, Defendant requests this action be stayed in order to produce a certified transcript of the record and file an answer. (Doc. 12). In the second motion, Defendant updates the Court on new measures implemented by the Commissioner to process the certified administrative record and attaches an updated affidavit of the executive director of the Social Security Administration's Office of Appellate Operations. (Doc. 12, pp. 1-4; Doc. 12-1). In sum, the pandemic has impacted the agency's operations and it has a backlog of actions awaiting certified transcripts, but the agency has implemented new measures to overcome the backlog. (Doc. 12, pp. 2-4). In opposition, Plaintiff contends the Commissioner claims that processing time

has improved to an average of 139 days. (Doc. 14, p. 1). With this improved processing time, Plaintiff's transcript should be available sooner than the requested stay. (Doc. 14, pp. 1-2). Plaintiff argues the Commissioner should advance the present case over cases where the stay is not opposed. (Doc. 14, p. 1).

A court has broad discretion whether to stay a proceeding "as an incident to its power to control its own docket." *Clinton v. Jones*, 520 U.S. 681, 706-707 (1997). The court must weigh the benefits of the stay against any harms of delay. *Id.* at 707. Here, the Commissioner has provided good cause to extend the deadline to file the certified transcript and answer. But the Court finds an additional ninety-day extension would cause undue delay. After considering the circumstances, the Court will extend Defendant's deadline to file a certified transcript and to answer by forty-five days.

Accordingly, the Opposed Second Motion for Stay of Proceedings (Doc. 14) is **GRANTED in part**. The Court extends the deadline for Defendant to file a certified transcript and answer to **July 26, 2021**. No further extensions will be granted without a detailed and case-specific showing that the Commissioner made a diligent effort to comply with the Court's deadline.

ORDERED in Fort Myers, Florida on June 25, 2021.



NICHOLAS P. MIZELL
UNITED STATES MAGISTRATE JUDGE